



Public Service Commission

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RECORDS AND REPORTING

DATE: AUGUST 3, 2000

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMPETITIVE SERVICES (BROWN, BULECZA-BANKS, MAKIN) *SBB*
 DIVISION OF ECONOMIC REGULATION (L. ROMIG) *CRBB*
 DIVISION OF LEGAL SERVICES (C. KEATING) *WCK RVE*

RE: DOCKET NO. 000502-GU - PETITION FOR APPROVAL OF SPECIAL CONTRACT WITH MAX-PAK CORPORATION BY TAMPA ELECTRIC COMPANY D/B/A PEOPLES GAS SYSTEM.

AGENDA: 08/15/2000 - REGULAR AGENDA - INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\CMP\WP\000502.RCM

CASE BACKGROUND

On April 12, 2000, Tampa Electric Company d/b/a Peoples Gas System (Peoples) filed a petition for approval of a special contract with Max-Pak Corporation (Max-Pak). In a June 8, 2000, memorandum, staff recommended that the Commission deny the proposed special contract between Peoples and Max-Pak. Staff suggested that it could be unduly discriminatory for Peoples to provide a discounted rate to Max-Pak without offering a discounted rate to its several other customers with similar or higher consumption levels than Max-Pak.

Staff also suggested that Peoples could achieve its goal of providing a competitive, discounted rate to Max-Pak by instead developing a new tariff or modifying the consumption threshold in its existing CIS or CTS tariff to a level at which Max-Pak and similarly situated customers would be eligible. Staff asserted

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that this alternative would avoid any unduly discriminatory effects of the proposed special contract and would eliminate the need for numerous special contracts. Staff noted that Max-Pak, in the proposed special contract, had agreed to abide by the same terms for interruption that exist in Peoples' CIS and CTS tariffs.

At the Commission's June 20, 2000, Agenda Conference, Peoples disagreed with staff's assertion that the proposed special contract is discriminatory. However, Peoples agreed that staff's alternative approach would provide a sound means for Peoples to address competitive fuel situations, like that of Max-Pak, as they arise. Peoples indicated its willingness to address Max-Pak's request for a competitive rate by reducing the consumption threshold in its existing CIS and CTS tariffs from 500,000 therms per year to 100,000 therms per year. Peoples requested that the Commission authorize staff to administratively approve these tariff modifications. Peoples agreed to withdraw its petition for approval of the special contract with Max-Pak upon approval of the tariff modifications.

At the June 20, 2000, Agenda Conference, the Commission appeared to agree that the suggested modification of Peoples' existing CIS and CTS tariffs, with administrative approval from staff, would provide a reasonable means for Peoples to address Max-Pak's request for a discounted rate competitive with the price at which it can purchase alternative fuel. One Commissioner also noted that this approach would allow Peoples to address similar threats of loss of load as they arise in the future without the necessity of numerous special contracts. The Commission voted to defer consideration of staff's recommendation to deny Peoples' petition for approval of the special contract.

Based on the discussion at the June 20, 2000, Agenda Conference, both staff and Peoples believed that the Commission had approved the suggested modification of Peoples' existing CIS and CTS tariffs and had authorized staff to administratively approve the modified tariff sheets. Further, based on that discussion, both staff and Peoples believed that the Commission's vote to defer this matter was based on the rationale that there was no need to vote on Peoples' petition for approval of the special contract because that petition would be withdrawn upon staff's administrative approval of the tariff modifications. Peoples has submitted its revised tariff sheets to staff, and staff administratively approved the tariff sheets. Peoples filed a notice of withdrawal of its petition on July 12, 2000, requesting that this docket be closed.

Upon subsequent review of the record of the June 20, 2000, Agenda Conference, staff has determined that while the record strongly indicates the Commission's approval of the course of action described above, no vote was taken to clearly approve that course of action. Instead, the record indicates only that the Commission voted to defer consideration of staff's recommendation to deny Peoples' petition for approval of the special contract. Accordingly, staff is filing this recommendation to seek clarification of the Commission's vote on this matter.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission clarify its vote from the June 20, 2000, Agenda Conference, concerning the request of Peoples Gas Company to modify its existing CIS and CTS tariffs to reduce the consumption threshold in the tariffs from 500,000 therms per year to 100,000 therms per year?

RECOMMENDATION: Yes. The Commission should clarify its vote: (1) to approve the modification of Peoples' CIS and CTS tariffs to reduce the consumption threshold in the tariffs from 500,000 therms per year to 100,000 therms per year; and (2) to authorize staff to administratively approve the modified tariff sheets.

STAFF ANALYSIS: As discussed above, the record of the June 20, 2000, Agenda Conference, strongly indicates that the Commission approved of a certain course of action discussed at that Agenda Conference: (1) Peoples' would be permitted to modify its CIS and CTS tariffs to reduce the consumption threshold in the tariffs from 500,000 therms per year to 100,000 therms per year; (2) staff would be authorized to administratively approve the modified tariff sheets; and (3) consideration of staff's recommendation to deny Peoples' petition for approval of a special contract would be deferred with the understanding that the petition would be withdrawn upon administrative approval of the modified tariff sheets. However, the record shows that no vote was taken to clearly approve that course of action. Instead, the record indicates only that the Commission voted to defer consideration of staff's recommendation to deny Peoples' petition for approval of the special contract.

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Accordingly, staff recommends that the Commission clarify its vote on this matter to clearly approve the course of action set forth above.

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ISSUE 2: Should this docket be closed

RECOMMENDATION: Yes, if no protest is filed within 21 days of the issuance of the order.

STAFF ANALYSIS: As noted above, Peoples has filed a notice of withdrawal of its petition for approval of a special contract with Max-Pak Corporation. Typically, withdrawal of the underlying petition would justify closing the docket immediately. However, in this case, the docket should remain open to allow a point of entry for persons whose substantial interests are affected by the tariff modifications discussed in Issue 1.

If a protest is filed within 21 days of the Commission order approving this tariff, the tariff should remain in effect pending resolution of the protest. If no protest is filed, this docket should be closed upon the issuance of a Consummating Order.